

Materials for

PUBLIC INTERNATIONAL LAW (252S)

VOLUME 4 (Topics 16 - 20)

March 1997

Professor Craig Scott Faculty of Law University of Toronto

These Materials are sold at cost and are not to be considered as published.

They are solely for the educational use of students at the University of Toronto or at other educational institutions to whom the Materials may also be sold at cost.

BORA LASKIN LAW LIBRARY

MAR 6 1996

FAGULTE OF LAW UPINEASITY OF TORONTO

UNIVERSITY OF TORONTO

Materials for

PUBLIC INTERNATIONAL LAW (252S)

VOLUME 4 (Topics 16 - 20)

March 1997

Professor Craig Scott Faculty of Law University of Toronto

These Materials are sold at cost and are not to be considered as published.

They are solely for the educational use of students at the University of Toronto or at other educational institutions to whom the Materials may also be sold at cost.

Digitized by the Internet Archive in 2018 with funding from University of Toronto

TABLE OF CONTENTS Volume 4

NOTE 1:	The course will be taught using these Materials as well as Ian Brownlie, eds., Basic Documents in International Law, 4th ed. (Oxford: Clarendon Press, 1995). A course reading list will indicate the provisions of instruments contained in Brownlie to be read in tandem with the readings contained in this volume and subsequent volumes.
NOTE 2:	"K:#" refers to an extract or note from Kindred et al., International Law: Chiefly as Interpreted and Applied in Canada, 3rd ed. (1987)
	"H:#" refers to an extract or note from Harris, <u>Cases and Materials on International Law</u> , 4th ed. (London: Sweet and Maxwell. 1991)
	"HPSS:#" refers to an extract or note from Henkin, Pugh, Schachter and Smit, International Law: Cases and Materials, 2nd ed. (St. Paul, Minn.: West Publishing, 1987)
CONST	Topic 16: ITUTIONALISM, UNILATERALISM, AND THE USE OF FORCE (I)
Law a	s a Process of Legal Justification
Schachter, "T International S	he Nature and Process of Legal Development in Society"
<u>General</u>	al Principles and Basic Documents
UN Definition	<u>of Aggression</u> , 1974 @ K27
•	Canadian Delegation on Aggression & Notes @ K30
Scott Chart, "	UN Charter and the Use of Force"
The L	eading Judicial Articulation of the Law on the Use of Force
Facts in the N	licaragua Case @ H:824
Nicaragua Ca	<u>se</u>
Scott Chart, "	Summary of Nicaragua Framework and Holdings"
Hargrove, "Tof Force and	he Nicaragua Judgment and the Future of the Law

The Aftermath in Nicaragua and El Salvador

Tacsan, The Dynamics of International Law In Conflict Resolution	41
Note on Elections and Compensation re. Nicaragua	
Note on Elections and Compensation ic. Mediagua	77
Ian Johnstone, Rights and Reconciliation: UN Strategies in El Salvador	45
Committee on Economic, Social and Cultural Rights, Concluding Observations: El Salvador	55
A Question Left Open in the Nicaragua Case: Anticipatory Self-defence	
The Caroline Incident & Notes (UK v US) @ K40	59
Schachter, "Self-Defense and the Rule of Law The Influence of Community Judgment"	60
Security Council Debate on Israeli Attack on Iraqi Nuclear Reactor @ K46	63
Security Council Resolution on the Israeli Attack & Notes @ K47	64
Canada, Legal Bureau, Dept. of External Affairs, Memorandum on Canada's position on preemptive strikes @ K48	65
What States Say versus What States Do, and the Peaceful Settlement of Disputes	
Akehurst and D'Amato Exchange, Letters to the Editor	66
Steven Ratner, "The Gulf of Sidra Incident of 1981: The Lawfulness of Peaceful Aerial Engagements"	69
ASIL Special Working Committee on Maritime Claims	73
Topic 17: CONSTITUTIONALISM, UNILATERALISM, AND THE USE OF FORCE (II)	
The Role of the General Assembly and Security Council in Collective Security	
Facts regarding the Anglo-French Invasion of Suez and Record of Debate in the House of Lords @ H:861-863	75
Uniting for Peace Resolution, 1950 (UN General Assembly), and Note on Peace-Keeping Forces @ H:891-894	77

Certain Expenses of the United Nations Case @ H:897-907
The Security Council's Response to Iraq's Invasion of Kuwait
Benvenisti, "Attempts to Annex Adjacent Regions: Kuwait, Western Sahara, and East Timor The Iraqi Occupation of Kuwait"
Summary of Resolutions 660-670 (1990)
United Nations Security Council Resolution 678 Concerning Iraqi Aggression [Nov. 29, 1990]
United Nations Security Council Resolution 687 Affirming Earlier Resolutions and Setting Forth Terms of Cease-fire [April 3, 1991]
United Nations Security Council Resolution 688 Concerning the Iraqi Civilian Population [April 5, 1991]
Map of Kurdish Area of Northern Iraq
Scholarly Debate Over Legality and Legitimacy of the Response to Iraq's Invasion
Schachter, "United Nations Law in the Gulf Conflict"
Weston, "Security Council Resolution 678 and Persian Gulf Decision Making: Precarious Legitimacy"
Caron, "Iraq and the Force of Law: Why Give a Shield of Immunity?"
Wood, World Order and Double Standards: Peace and Security, 1990-1991 ("The Kuwait Invasion as Test Case")
The Continuation of the Conflict
Center for Economic and Social Rights, "Executive Summary" in (UN)Sanctioned Suffering: A Human Rights Assessment of United Nations Sanctions on Iraq
Graham, Fraser, "US launches second attack on Iraq" (Sept. 4, 1996)
Drew Fagan, "U.S. isolation weakens its hand" (Sept. 4, 1996)
Jeff Sallot, "'Sometimes we have to act alone,' U.S. says"
A Lawyer-Diplomat's Response to the Realist Critique
Martti Koskenniemi, "The Place of Law in Collective Security"

Topic 18: CONSTITUTIONALISM, UNILATERALISM, AND THE USE OF FORCE (III)

'The	Entebbe Raid"	Security Cour	ncil Debates & No	otes @ K51			. 136
	Humanitarian I Rights and Den		Three Arguments	Against Usi	ing Force to	Protect F	<u>Iuman</u>

The Rescue of Nationals Abroad

D'Amato, "The Invasion of Panama Was a Lawful

Rights and Democracy
Brownlie, "Thoughts on Kind-Hearted Gunmen"
Walzer, "The Moral Standing of States: A Response to Four Critics" & Cox News, "Somalia fast becoming quagmire for U.S. forces"
Schachter, "The Legality of Pro-Democratic Invasion"
The Panama Invasion: Welcoming Democracy?
David Alberts, "The United States Invasion of Panama: Unilateral Military Intervention to Effectuate a Change in Government A Continuum of Lawfulness"
U.S. [Dept. of State] Digest, "Protection of Nationals - Deployment of U.S. Forces to Panama"
UN Security Council, "Letter Dated 20 December 1989 from the Permanent Representative of the United States of America to the United Nations Addressed to the President of the Security Council"
Secretary of State for External Affairs, News Release, "U.S. Action in Panama"
"Panama" in Canadian International Relations Chronicle
United Nations Security Council, Debates on the United States' Invasion of Panama, [Canada and Peru]
David Alberts, "The United States Invasion of Panama International Appraisal"
David Alberts, "The United States Invasion of Panama Author's Appraisal"

Craig Scott, "Grenada, Nicaragua and Panama: Tracking Force-for- Democracy Discourse in the 1980s"
Sofaer, "The Legality of the United States Action in Panama"
Henkin, "The Invasion of Panama Under International Law: A Gross Violation"
Panama as Precedent?
Hargrove, "Intervention by Invitation and the Politics of the New World Order"
AP, "Opposition mounts against Mobutu: Main rival urges military intervention in Zaire"
Haiti and Resolution 940: The Panama Paradigm Goes Collective?
Damrosch, "Recent Security Council Actions Concerning Internal Conflicts"
Carothers, "Empirical Perspectives on the Emerging Norm of Democracy in International Law"
Carothers, "ASIL and Carnegie Present Program on Haiti"
Gordon and Schmitt, "U.S. fears Haitian trap"
Snow, "Many Haitians favour invasion"
Jehl, "Clinton Seeks U.N. Approval of any Plan to Invade Haiti"
Lyons, "U.N. Authorizes Invasion of Haiti to be Led by U.S."
[Text of Resolution 940] "The U.N. Resolution Clearing the Way for an Invasion of Haiti"
HIB, "Haitians Debate the U.S. Occupation"
Topic 19: COMMUNICATION AND NORMATIVE PROCESS IN THE NUCLEAR AGE (I)
Atmospheric Nuclear Testing and Custom: Two Classical Accounts
Myres McDougal, "The Hydrogen Bomb Tests and the International Law of the Sea"
Ian MacGibbon, "Customary International Law and Acquiescence" @ K:177 194

The Nuclear Test Cases and Unilateral Obligations

Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water (1963)
Nuclear Tests Case #1 [1974] (Australia v France; New Zealand v. France) @ K116
View of the Canadian Dept. of External Affairs on Unilateral Obligations @ K118
Reisman, "International Lawmaking: A Process of Communication"
Nuclear Tests Case #2 [1995] (New Zealand v France)
Nuclear Non-Proliferation, Interpretive Communities, and the Horizontality of Treaty Interpretation
Treaty on the Non-Proliferation of Nuclear Weapons, 1968
Johnstone, "Treaty Interpretation: The Authority of Interpretive Communities"
Recent Developments
Nwogugu, "1995 NPT Review and Extension Conference: An Appraisal"
AFP, Reuter, "Beijing warns against 'unequal' N-ban treaty"
Dept. of Foreign Affairs, Some Examples of Current Issues of International Law of Particular Importance to Canada "Comprehensive Test Ban Treaty"
Topic 20: COMMUNICATION AND NORMATIVE PROCESS IN THE NUCLEAR AGE (II)
Rules, Process, and Argument
Higgins, "The Nature and Function of International Law"
Henry Steiner, "International Law, Doctrine and Schools of Thought in the Twentieth Century"
General Assembly and UN Conference Resolutions on Nuclear Weapons Use and the Environment
Ian Brownlie, Principles of Public International Law

UN General Assembly Res. 1653 (XVI), <u>Declaration on Banning of Nuclear Weapons</u> . 256
UN General Assembly Res. 1665 (XVI), <u>Prevention of Wider Dissemination of Nuclear Weapons</u>
Declaration of the United Nations Conference on the Human Environment [the Stockholm Declaration], 1972, Principles 1, 2, 6, 7, 21, 22, 26
Rio Declaration on Environment and Development, 1992, Principles 1, 2, 13, 15, 24
The I.C.J. Nuclear Weapons Advisory Opinion
Advisory Opinion on the Legality of the Threat
or Use of Nuclear Weapons
The Opinion of the Court
Declaration of Judge Shi Jiuyong
Dissenting Opinion of Judge Oda
Dissenting Opinion of Judge Weeramantry
Dissenting Opinion of Judge Schwebel
Dissenting Opinion of Judge Higgins
Declaration of Judge Vereshcheten

